REMARKS

The final Office Action of September 18, 2008 has been carefully reviewed and this response addresses the Examiner's concerns.

I. STATUS OF THE CLAIMS

Claims 1-12 are pending in the application.

Claim 2 is objected to because of informalities.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claims 1-3, 6 and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Davis et al. (US 7,209,571).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

Claims 5-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. in view of Levy et al. (US 6,505,160).

II. THE CLAIM OBJECTION

Claim 2 is objected to because of informalities.

Claim 2 has been amended to correct the typographical error from "am act" to --an act--. Applicants therefore believe that the objection to claim 2 has been overcome. These amendments have not been made to distinguish over any reference of record and no narrowing of any corresponding equivalents to which the amended limitation(s) or claim(s) is/are entitled is intended by these amendments.

III. THE 35 U.S.C. 112 REJECTION

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claim 4 has been amended to correct the two antecedent issues and now recites "the time data defines the start time and the duration, relative to the received audio signal, for a markup language term in the instruction set." Therefore, Applicants believe that the 35 U.S.C. 112 rejection is overcome. These amendments have not been made to distinguish over any reference of record and no narrowing of any corresponding equivalents to which the amended limitation(s) or claim(s) is/are entitled is intended by these amendments.

IV. THE 35 U.S.C. 102 REJECTION

Claims 1-3, 6 and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by US 7,209,571, Davis et al., (hereinafter "Davis"). In setting forth the rejection of claims 5-7, the examiner admits that Davis fails to teach a browser distributed amongst a set of devices, the browser arranged to receive an instruction set of the markup language and to receive markup language assets. The limitations of claims 5-7 have been added to independent claim 1, and claims 5-7 canceled, without prejudice. Accordingly, claim 1 is believed not anticipated by Davis.

In a similar manner, the limitations of claims 7 and 10-11 have been added to independent claim 9, and claims 10-11 canceled, without prejudice. Accordingly, claim 9 is also believed not anticipated by Davis.

Further, both claims 1 and 9 recite "rendering the markup language assets in synchronization with the received audio signal" (Claim 1, line 8; cliam9, line 9-10) are believed patentable over the combined teachings of Davis in view of Levy. In the subject application the metadata which comprises an instruction set of a markup language is applied to a browser and used to control one or more devices in synchronization with the original received audio signal Davis teaches that metadata can be derived from an audio file as the output of a hash function. Such metadata can be carried with the file and used for authentication. The examiner has not shown where the output of such a hash function can be usable to control one or more devices. Levy teaches that an identifier may be included with an audio file for use in linking to a website, such identifier not having been derived from the audio file itself. Notwithstanding the examiner's allegations, the combined teachings of Davis and Levy would not disclose the method recited in claim 1 or the system recited in claim 9, that is, metadata derived from an audio signal and used as a signal to control devices in synchronization with the audio signal., The metadata in Davis is a meaningless output of a hash function, which may be useful as a watermark, but, if applied to a browser, as allegedly disclosed in Levy, would be meaningless. Such data cannot be used either for linking to another website or for controlling of any other device. In the subject application, the metadata derived from an audio file has specific meaning as to the parameters of the audio file and can be used as an output signal to control data useful for controlling devices

such as lighting devices. The output of a hash function as described in Davis cannot be used for such purpose. The combination of Levy to Davis would result in a nonsensical system which lacks any kind of utility.

In light of the foregoing, applicants respectfully assert the claims 1 and 9, as well as their respective dependent claims are patentable over the combined teachings of Davis and Levy.

V. THE 35 U.S.C. 103(a) REJECTIONS

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. In light of the amendments to claim 1, applicants respectfully assert that claim 4 is not obvious in light of Davis, for the reasons set forth herein.

VI. CONCLUSION

In conclusion, in view of the above amendments and remarks, Applicants believe that claims 1-12 are now in condition for allowance, and respectfully request that the Examiner pass this case to issue. If after considering the above remarks and amendments, the Examiner is still not of the opinion that allowable subject matter is claimed, Applicants respectfully request a telephone interview with the Examiner and his/her respective Supervisory Patent Examiner to resolve any outstanding issues prior to issuance of any further office actions.

The Director of Patents and Trademarks is hereby authorized to charge the large-entity Request for Continued Examination fee, the two-month extension fee, and any deficiencies, or to credit any overpayments, to Deposit Account No. 03-2410.

In accordance with Section 714.01 of the MPEP, the following information is presented in the event that a call may be deemed desirable by the Examiner:

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Respectfully submitted,
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